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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/827,613

04/06/2001

Eric J. Sprunk

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09/26/2006

GENERAL INSTRUMENT CORPORATION DBA THE CONNECTED
HOME SOLUTIONS BUSINESS OF MOTOROLA, INC.
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HORSHAM, PA 19044

EXAMINER

USTARIS, JOSEPH G

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/827,613

Applicant(s)

SPRUNK, ERIC J.

Examiner

Joseph G. Ustaris

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-10, 16 and 18-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10, 16, and 18-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is in response to the RCE dated 28 July 2006 in application 09/827,613. Claims 1-3, 5-10, 16, and 18-28 are pending. Claims 1, 18, and 26 are amended.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 July 2006 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-10, 16, and 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMullan, Jr. et al. (US005654746A) in view of Russo (US005619247A) and Smith et al. (US005581270A).

Regarding Claim 1, McMullan et al. (McMullan) discloses a method for securing an object associated with a content receiver that is part of a conditional access system

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comprising receiving the object (video game data, Col. 3, Lines 49-53 and Col. 5, Lines 38-50) by the content receiver (See Figure 1, 177) and loading the object into memory (Col. 6, Line 64 - Col. 7, Line 12). A user is able to use the system for specific amounts of time (arcade mode, Col. 10, Line 58-63 and Col. 11, Lines 4-12). Upon ordering a game, an authorization message including an amount of playtime is transmitted to the user's terminal (Col. 11, Lines 29-38). During play, a memory storing the amount of time available is decremented for each time unit of play (Col. 14, Lines 35-43). This reads on the claimed beginning a timer counting (decrementing the playtime available). Continual checks are made to determine if the amount of playtime available stored in memory reaches zero (playtime expires) so that the system may terminate game play (Col. 7, Lines 57-61, Col. 12, Lines 29-30 and Col. 14, Lines 40-43). This reads on the claimed determining when the timer expires and executing an event that correlates with the determining step (if remaining playtime is zero, halting play). Further, since the playtime available stored in memory is now zero, the system will no longer allow a user to begin playing another game (Col. 12, Lines 7-23). This reads on the claimed changing an authorization status (setting playtime to zero) based on the determining step. However, McMullan does not disclose (1) a period before the timer expires comprises a trial period where use of the object is allowed before a purchase of the object is required and (2) that the executing step comprises a step of querying a user of the receiver for purchase of the object.

(1) Russo discloses a program pay-per-play system for video games (See col. 3 lines 40-46). Russo discloses a period before a timer expires that comprises a trial

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period (e.g. preview period) where use of the object is allowed before a purchase of the object is required (See col. 10 line 60 – col. 11 line 4). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the method disclosed by McMullan to offer a period before the timer expires that comprises a trial period where use of the object is allowed before a purchase of the object is required, as taught by Russo, in order to provide various billing methods thereby offering more options and convenience for the user.

(2) Smith et al. (Smith) discloses a user terminal for receiving gaming content (Col. 3, Lines 58-64) wherein a guest is operable to purchase an amount of playtime and a check is made to see if the playtime has been exceeded (Col. 10, Lines 8-11). When the user runs out of playtime, a menu is displayed including an option to buy more time (Col. 10, Lines 11-15). Once more time is purchased, the system is operable to continue game play (Col. 9, Lines 19-27). This reads on the claimed querying a user for purchase of the object. Smith is evidence that one of ordinary skill in the art would appreciate the ability to allow a user to purchase continued use of an interactive offering. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of McMullan with the additional playtime purchase of Smith in order to increase revenue by allowing continued use of a service without forcing a user to leave a game in progress.

Regarding Claim 2, McMullan discloses a method as stated above in Claim 1, wherein the executing step comprises the step of executing an action in correlation to

the determining step as stated above. This action (continuing or halting game play if playtime has or has not expired) reads on the claimed checkpoint.

Regarding Claim 3, McMullan discloses a method as stated above in Claim 2, wherein the checkpoint either authorizes play (timer has not reached zero) or de-authorizes play (timer has reached zero). This reads on the claimed authorizing use of the object by the content receiver.

Regarding Claim 5, McMullan discloses a method as stated above in Claim 1, further comprising a step of changing the authorization status based on the executing step as stated above in Claim 3.

Regarding Claim 6, McMullan discloses a method as stated above in Claim 1, wherein the receiving step comprises downloading the object from an authorized data channel (Col. 5, Lines 38-39) in an encrypted form (Col. 7, Lines 20-25).

Regarding Claim 7, McMullan discloses a method as stated above in Claim 1, wherein the loading step comprises the step of loading the object in volatile memory (IDRAM, see Figure 2).

Regarding Claim 8, McMullan discloses a method as stated above in Claim 1, wherein the beginning step comprises a step of receiving the playtime data as stated above. This reads on the claimed determining a time value (amount of playtime available to the user) that the timer measures.

Regarding Claim 9, McMullan discloses a method as stated above in Claim 1, wherein the determining step is executed on a security processor (ASIC 200, Col. 14, Lines 40-43) separate from a general-purpose processor (Col. 6, Lines 6-7).

Regarding Claim 10, McMullan discloses a method as stated above in Claim 1, further comprising a step of removing the object from the memory (by resetting the device) based upon the changing step as stated above.

Regarding Claim 16, see Claim 8 above. The time valued is a predetermined value based on the amount of time the user has purchased (Col. 11, Lines 10-12).

Regarding Claim 18, see Claim 1 above.

Regarding Claim 19, McMullan in view of Russo and Smith disclose a method as stated above in Claim 18. McMullan further discloses that the terminal is operable to receive authorization including playtime (Col. 11, Lines 29-37) in an encrypted communication (Col. 7, Lines 20-25) from the service provider. This reads on the claimed remotely changing a time for the content receiver using encrypted commands wherein the timer is correlated to the time.

Regarding Claim 20, McMullan in view of Russo and Smith disclose a method as stated above in Claim 18. Smith further discloses that if the user opts to purchase more time, game play is allowed to continue as stated above in Claim 1. This reads on the claimed changing the authorization status based on the querying step.

Regarding Claim 21, see Claim 6 above.

Regarding Claims 22-25, see Claims 7-10 above, respectively.

Regarding Claim 26, see Claim 18 above. The beginning a timer counting and determining when the timer expires of Claim 18 read on the claimed beginning a usage counter counting and determining when the usage counter reaches a limit.

Regarding Claim 27, see Claim 20 above.

Regarding Claim 28, see Claims 10 and 25 above.

Response to Arguments

3. Applicant's arguments with respect to claims 1-3, 5-10, 16, and 18-28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G. Ustaris whose telephone number is 571-272-7383. The examiner can normally be reached on M-F 7:30-5PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JGU
September 20, 2006



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